

TEST OF THE INCOME TAX

Supreme Court Will Consider Case.

(From Wednesday's daily.)

The Supreme Court will hold a special session for the consideration of the income tax law and the habeas corpus cases, beginning next Monday morning. A test of the income tax has been agreed upon and will probably be filed tomorrow.

The grand jury which was called particularly to hear the cases of the prisoners released by habeas corpus was instructed to that effect yesterday morning, but when Judge Gear was notified by Attorney General Dole that the Supreme Court would consider his appeal, the jury was recalled and told that they could do as they pleased about the criminal cases.

THE INCOME TAX.

The test case for the purpose of obtaining a decision on the income tax law was agreed upon yesterday morning. Attorneys Smith, Lewis and Hartwell will bring the proceeding by stipulation as to the facts and agreement with Robinson & Wilder, attorneys for the Tax Office. The particular case upon which the test is to be made has not been decided as yet, though it will be shortly. Attorney Lewis in speaking of the proposed test yesterday said: "We have not agreed as yet to the parties in whose name the suit will be brought, but it will be by stipulation, and upon agreed facts. The test case will be taken directly to the Supreme Court on the grounds which have already been stated in the public press. We will decide upon the parties to the test case within a few days, and the stipulation will be filed with the Supreme Court. The case is to be heard either Monday or Tuesday."

Chief Justice Frear stated that the Supreme Court would begin its session Monday and continue for several days. Though it was called for the consideration of the income tax law and the habeas corpus cases, he stated that such other business as might come up would be taken up. The order made by the Supreme Court for a special session is as follows:

IN THE SUPREME COURT OF THE TERRITORY OF HAWAII.

ORDER FOR A SPECIAL TERM.

The Supreme Court of the Territory of Hawaii deeming it necessary for the dispatch of business, it is hereby ordered that a special term of said court be held in Honolulu, Island of Oahu, in the court room of the said court, commencing at 10 o'clock a. m. on Monday, the 12th day of August, 1901.

By the Court: HENRY SMITH, Clerk.

GRAND JURY CHARGED.

Judge Gear made his charge to the grand jury yesterday morning and in the afternoon practically withdrew his instructions, upon hearing that the Supreme Court would consider the habeas corpus cases on appeal, in spite of the fact that he had refused to allow the Attorney General that privilege.

The following men were on the jury as finally picked: John Adams Baker, Charles Notley, George Parmelee Castle, William Montrose Graham, John H. Wise, James Erskin Fullerton, John Harry Soper, Frank Pratt McIntyre, Robert C. A. Peterson, Frank H. Armstrong, Frederick Joseph Church, John Crowder, Frederick John Cross, Albert Andrews Wilson, James A. Low, Frederick Martin Lewis, Charles Thomas Wilder, Lemuel Clark Ables, Horace Joseph Craft.

L. C. Ables was made foreman of the jury and Emil Ney placed in charge as bailiff. William S. Wood was not present in court, and Judge Gear issued a bench warrant for him, but he called it upon learning that the man's occupation was that of a train dispatcher.

After referring to the fact that he had not intended to call a jury at this time, but for the habeas corpus cases, the court said:

"There are a number of men in the penitentiary under commitment from the courts during what is commonly known as the transition period. Some of them asked this court for writs of habeas corpus and writs were issued. The Newlands resolution passed by Congress provided that all laws of the Hawaiian Islands not in conflict with the Constitution of the United States should remain in force. There have been contrary decisions as to the meaning of this provision, but the last is the decision of this court, holding that the language meant what it said, and that all laws in conflict with the Constitution were by the express terms of the resolution abrogated and annulled."

"There is no question that this resolution was in effect after August 12, 1898, and perhaps it went into effect before that. These men were convicted between August 12, 1898, and June 14, 1900, when the Organic Act went into effect. Many of them asked at their trials that the court instruct the jurors that unanimous verdicts were necessary that being the law of the United States."

"Subsequently the Supreme Court of the United States decided that there were no transition periods, that territory either remained foreign or became domestic at once. That made it necessary for this court to decide that Hawaii became domestic territory of the United States at once on annexation, and, therefore, all laws contrary to those of the United States were immediately annulled."

"Those men convicted by verdicts of nine out of twelve jurors after August 12, 1898, were, therefore, illegally convicted. It was their constitutional right to be discharged when they applied to this court, and this court, having sworn to support the Constitution of the United States, could not but discharge them. A number were discharged and subsequently rearrested."

"There seems to be no reason why they should not be re-arrested and tried in a legal way."

"In the opinion of the court all those who are confined under illegal convictions should have been discharged."

though they made no application to the court. This is a matter which you, gentlemen, can investigate. If it appears to you that there are prisoners illegally held in jail you can recommend such steps as you may deem proper, under the advice of the Attorney General."

"It has become necessary that these men who have been released shall be given trials. Acting upon evidence which is believed to be sufficient to convict, the Attorney General has had them re-arrested. They are entitled now, as they were before, to indictment by a Grand Jury before they are placed on trial, according to the express provision of the Constitution of the United States."

"That is the reason you are called at this time. The court has many civil cases on its calendar, which it is trying to dispose of as fast as it can, and if it had not been for these habeas corpus matters there would have been no Grand Jury this term."

The jury held sessions in the court reporter's room. In the afternoon they were called into court by Judge Gear, who placed before them a brief notification from Attorney General Dole of the fact that the Supreme Court would hold a special session Monday for the consideration of the appeal in the habeas corpus cases. He told them they were now at liberty to do as they pleased about the habeas corpus cases, and could have Mr. Dole brought before them if they chose. He said the attitude of the Attorney General was inconsistent, in that he had appealed the one case and then had the men arrested for the same crime. He handed the communication to the foreman of the jury, with the statement that they should act as they saw fit in the matter. The jury continued in session all afternoon, and evidently intended to take up the habeas corpus cases in spite of the evident reluctance of Judge Gear to have them do so.

FEDERAL COURT.

The Bryant libel case was before Judge Estee all day yesterday on argument. The oral arguments were completed by evening and the attorneys were given five days to file briefs.

Attorney Peters was appointed to defend Mate J. M. Douglas, who is charged with assault upon the high seas. He will plead this morning, and evidently intention cases were also set for today.

An answer has been filed by the Oahu Railway Company in the Peary Harbor condemnation suit. A claim of \$5,000 for damages is made and the petition follows out closely those already published.

NEWS OF WORLD CONDENSED

Brazil is facing a financial panic. Tolstoi is hovering between life and death.

The Oklahoma home-seekers number 167,000. Women are now barred from Denver saloons.

Bears from the West are invading Wall street. The tea growers of Japan may limit the supply.

On July 26, Nevada was shaken by a heavy earthquake. Russia withdraws her proposal to increase Chinese duties.

A heavy rain in the Middle West has broken the long drought. A Boston company has devised a system of submarine signals.

At Tucson, Ariz., a horse thief was hanged by local cow punchers. Rear Admiral Sampson will retire from the service next February.

Efforts to settle the labor trouble in San Francisco are so far futile. The new battleship Maine has been successfully launched and christened.

Congressman Marion de Vries, of California, is in a critical condition. The hotel and many cottages at Byron Hot Springs were destroyed by fire.

A thunder storm caused a flood in London, and stopped the underground cars. Kitchener confirms the story that Boers shot British wounded at Vlakfontein.

Many insurgents have yielded in Samar, P. I., and the island will soon be pacified. The center of the city of Batoum, Russia, has been wrecked by a boiler explosion.

A dinner given by Jacob Greenwald of Philadelphia had \$20 gold pieces as souvenirs. Dave Crockett's big adobe gambling house at Naco, Ariz., was held up and robbed of \$1,000.

The Danish Liberal Cabinet favors the sale of the West Indian Islands to the United States. Russia is building gunboats to patrol Manchurian rivers, and is also fortifying central ports.

The Democratic State Committee of South Carolina has read Senator McLaurin out of the party. The new White Star liner Celtic, the largest vessel ever built, left Liverpool July 26 on her maiden trip.

Aguinaldo has written to the mother of a captured American soldier and will try and find him for her. E. Marion Crawford felt over a cliff into the sea while visiting the island of Jersey, and nearly lost his life.

Two members of an English party were dashed to death on the Matterhorn, and two others severely hurt. The Manchurian revolt is serious. Villages and hamlets have been destroyed, and hundreds of people killed.

Thirty-two returned soldiers from South Africa refused to be decorated on the ground that they needed their arrears pay more. The Chinese reform board has been ordered by the court to copy from western nations and make China a rich and powerful State.

A beautiful American girl in Paris has asked to be taken into an asylum, saying that she has an uncontrollable desire to kill babies.

It is thought that Andre's balloon, owing to humidity in the atmosphere when it left Spitzbergen, got a coating of ice and fell into the sea.

Vincent Blasoli, a San Francisco stone carver, set fire to his flat to secure the \$200 insurance money, with which he planned to get married.

Floods in San Pedro Valley, Arizona, washed away ten miles of railroad track, and many ranch houses, and threatened the town of Fairbanks.

While Miss Anna Hashtund was trying to save a companion from drowning in the Tuolumne river at Modesto, Cal., she was carried away and drowned.

A nine-year-old boy at San Bernardino, Cal., got a stick of dynamite, mistook it for a firecracker and set it off, being seriously, probably fatally, wounded.

Former Chief Justice Elmore Scott, of the Washington Supreme Court, has been arrested at New Whatcom, that State, charged with criminally assaulting Minna Schaeffer, a fifteen-year-old girl.

The United States has entered suit against Captain Oberlin M. Carter, and his uncle, Lorenzo D. Carter, for \$2,250,000, alleged to have been embezzled by that officer.

The Bishop of Durham is dead. More disorders are reported in Spain. Signor Crispi was growing worse on July 28.

Wide open gambling is now going on in Dawson.

General Wood says that Cuba has a great future. Forest fires have been raging in the Grass Valley, Cal., forests.

The Mad Mullah of Somaliland was routed by the British on July 28. A New Jersey anarchist has been arrested for threatening to kill the Czar.

The British battleship Glory is reported to be aground near Shanghai. M. Paul Lassar, the new Russian minister, is now at the Chinese capital.

Revolutions are threatening in South America. Hostilities have already begun. Indians have made claims for the right to file on the public lands of Oklahoma.

An American woman has won a suit against a Paris restaurant for an extortionate bill. The Kaiser is taking advantage of his yachting trip to make a study of naval maneuvers.

Embassador Choate has left London for Holland, and it is reported that he goes to meet Kruger.

Turkey is not worried by the threats of the powers. She makes promises and proceeds to violate them.

The White Pass line in the Yukon district, is to be extended 200 miles to avoid the Five Finger Rapids.

The London War Office is suppressing cable news on account of accusations made by the London Mail. Welcome rains fell in Kansas and neighboring States, July 28. The rain means the salvation of the crops.

The son of Admiral Schley says his father is holding back some trump cards, and will surprise his accusers. The first anniversary of the assassination of King Humbert of Italy was observed by hundreds of thousands of people who made a pilgrimage to the tomb at the Pantheon.

Jew Do Hong, a Chinese boy, fifteen years old, was shot and killed at San Francisco by Jew Lin Ong. A feud between their fathers in China is the cause assigned for the killing.

A Boer minister declared in Chicago that the rate at which women and children were dying in the Dutch concentration camps meant the extermination of the race in nine years.

Indications are that Korea is the Oriental store center, as Russia using France to secure the privileges, wants to build a railroad to Masampo, the fine port of the south, from which a descent, on Japan would be easy.

W. J. Bryan, in an interview at Chillicothe, Ill., still expresses his adherence to the silver doctrine, and is not unwilling to be considered a presidential candidate at the proper time.

Con and Florence Sullivan, of Butte, Mont., and P. J. Rooney, of Seattle, were killed by Indians on Unalak Island, Alaska. D. Jackson, who escaped, says the Indians first stole the guns of the prospectors, then slew them from ambush.

A motion to compel the publisher of the London Daily Mail to appear before the House of Commons was defeated. Secretary Broderick had charged the Mail with buying secrets of the war department, and the editor replied by saying the charges were baseless and mean.

In a fight between the Boers and British near Uquinta, July 28th, the English troops narrowly escaped the loss of a gun. The British lost five killed. General Kitchener reports the capture of a pompong, twenty-two wagons and twenty-three prisoners, at the same battle.

TURF NOTES.

Prince of Melbourne won the \$5,750 Brighton cup easily. Jockey Wilkinson was seriously hurt in a race at Brighton Beach.

W. K. Vanderbilt has shipped Halma, his \$30,000 stallion, to France. Robert Waddell, the American Derby winner, won the Free handicap at Chicago.

The California Jockey Club announces 25 stakes aggregating \$56,000 in value. George Ketchum will winter Cresceus, the world's champion trotter, at the Coast.

Cambrian defeated Advance Guard in the \$5,000 Monardnock handicap stakes at Chicago. Prince of Melbourne was sold recently to the East for \$20,500. Charragrass fetched \$5,500.

The well-known pacer, Coney, 2:02, has been sold to W. B. Dykeman of White Plains, N. Y. Jockey S. Johnson broke his collarbone and was badly injured internally in a race at St. Louis.

Mount Prospect (Maher) won the Liverpool cup. E. Corrikan's Semper Vigilans (Thorpe) was second. Martha Marshall won the 2:14 class pace at Columbus. Best time 2:07 1/2, reducing her record a full second.

The Stewards' cup, run at Goodwood, England, was won by O'Donovan Rossa at odds of 55 to 1. Twenty-eight ran. The jumper, Gold Dust, was killed in a hurdle race at Butte, Montana. Jockies Morrison and McCarthy were injured.

Adrian Wilkes, the famous stallion, is dead. He was 24 years old. He sired 54 trotters and pacers with records of 2:30 and better.

At Columbus, Audubon Boy outfooted his field in the 2:20 class pace, value \$5,000. Best time 2:07 1/2. The winner reduced his record from 2:09 1/2 to 2:08 1/2.

In the 2:09 class pace at Columbus the heat winners, George 2:06 1/2, Carmine 2:07 1/2 and Stacker Taylor 2:08 1/2, all broke their records. Onward Silver, who won the 2:12 trot, went a heat in 2:10 1/2, reducing his mark.

At Cleveland, Ohio, Cresceus, the world's champion trotting stallion, traveled a mile over the Glenview track in 2:02 1/2. This establishes a new world's trotting record for both sexes, eclipsing the former record of 2:03 1/2, held by The Abbott.

GOOD MEDICINE FOR CHILDREN.

If you have a baby in the house you will wish to know the best way to check any unusual looseness of the bowels, or diarrhoea, so common to small children. O. P. M. Holliday, of Denning, Ind., who has an eleven months' old child, says: "Through the months of June and July our baby was teething and took a running off of the bowels and sickness of the stomach. His bowels would move from five to eight times a day. I had a bottle of Chamberlain's Colic, Cholera and Diarrhoea Remedy in the house, and gave him four drops in a teaspoonful of water and he got better at once." For sale by Benson, Smith & Co., Ltd., general agents, H. T.

THE BIG HALL FIRE.

(Continued from Page 2.)

reached by Mr. Guery. It is thought that he will catch the steamer this morning and will be here tomorrow if not tonight. As a result of the necessity of the adjuster having to see the goods which were destroyed or damaged, there will be nothing done in the way of salvage until Mr. Guery has given permission. This may affect the stock in Lowers & Cooke's store.

The following list of the insurance risks upon the store and stock of Hall & Son is furnished by Acting Secretary Walker:

Hartford Fire Insurance Co.	\$ 5,000
Transatlantic Fire Ins. Co.	5,000
Hamburg-Bremen Insurance Co.	20,000
Magdeburg Insurance Co.	5,000
Fireman's Fund Ins. Co.	9,000
Liverpool, London & Globe	10,000
Sun Ins. Office	5,000
Home Fire Ins. Co.	5,000
Caledonian Ins. Co.	10,000
Alliance Assurance Co.	2,000
Prussian National Ins. Co.	5,000
North America Ins. Co.	5,000
Philadelphia Underwriters	5,000

\$30,000 building.
\$51,000 stock.
\$81,000

While the companies in which the insurance upon the Lowers & Cooke store and stock is placed are not known, Mr. J. A. Gilman says the risks on the stock are divided between seven companies, \$2,500 each. On the store building there is \$8,500 insurance and on the goods in the basement of Trust & Investment building there is \$1,500.

After pouring of water into the Hall wreck all day, from one engine, the smouldering flames broke out in small fires after 6 o'clock and burned darkly all evening. The streams of water were directed as much as anything else to cooling the vault, in which are all the valuable papers. It is the intention to allow this to cool perfectly before trying to open it, so that there may be no such attempt until tomorrow.

After the fall of the King street walls the front on Port street was so weakened that it was decided that it should come down. Accordingly John Ouderkirck set to work, and during the afternoon pushed over all but the makt end of the wall. This was done so that there would be no danger for any one in the event of a high wind springing up and blowing the wall over. All through the day there was a large crowd which gathered to watch the fall and the exertions of the men engaged in the destruction of the walls, which was accomplished finally about 5 o'clock.

All day yesterday a stream of water was played into the ruins of the Hall & Sons building, with the result that last evening the wreckage was so cold that the opening of the vault was undertaken. The combination worked like a charm but one of the bolts would not work, so that it was necessary to open the door with a crowbar.

Inside the vault it was found that there was some water which had entered under the door, but this had not risen sufficiently to damage anything in the vault. The books and papers were not harmed to even the slightest extent, and when all had been taken to the new offices there was no blemish found.

The clearing away of the wreckage will begin this morning. The mass of debris will be taken from the street and the task of working out the matter which fills the excavation for the cellar will be next undertaken. It is expected that the ruins will be cleared away within ten days and that the work of preparation for the new structure will then be taken up. The firm yesterday gave the commission for the plans and specifications of their new building to O. G. Trapfagen, and it is understood that there will be no delay in the work of getting ready. It has been decided that the building will be on general lines the same as the old one, without the amount of ornamentation which was there given to the cornices and doorways.

During a stormy scene in the House of Commons, on the debate on taxation of agricultural property, William Redmond and Patrick O'Brien were "named" and suspended.

All Run Down

No Appetite. Weak. Discouraged.

Warm climates always debilitate the nervous system. The digestion is slow, and the liver becomes sluggish. Impurities in the blood accumulate, and you go about downhearted and depressed. All this may be quickly changed with proper treatment.

Mrs. C. Kennedy, of 26 Erskine St., North Melbourne, Victoria, sends us her photograph and this letter:



"I had lost my appetite, was very weak, and all run down. Nothing did me good, and I was discouraged. I then tried

AYER'S Sarsaparilla

and it brought me right up to my usual health and strength. And I want to add a word here about Ayer's Cherry Pectoral. It has cured me of such hard coughs and colds that I feel I could not do without it. For family remedies I rely on that word, 'Ayer's'."

Keep your bowels in good condition with Ayer's Pills. Take just enough to produce one good free movement of the bowels daily.

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POWELL'S BALSAM of ANISEED.—Catarrh.
POWELL'S BALSAM of ANISEED.—Night Cough.
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Mr. A. J. Woodhouse, Fern Lodge, Clearyville, Pa., writes: "Last year Powell's Balsam of Aniseed cured for me a very obstinate cough of some months' duration, which I feared would lapse into a pulmonary affection." Mr. Lionel Brough, the eminent actor writes: "I think it an invaluable medicine for members of my profession, and have always recommended it to my brother and sister artists."

In palace and cottage alike, Powell's Balsam of Aniseed is the old and unexcelled remedy for Coughs, COLDS, ASTHMA, BRONCHITIS, NIGHT COUGH, INFLUENZA, &c.

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WARNING.—When purchasing Powell's Balsam of Aniseed you are earnestly requested to see that the "Lion, Net, and Mouse" trademark is on the bottle wrapper, and be not persuaded to take imitations.

Sold by all Chemists, &c., throughout the world.

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